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161435Z Dec 05

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SUBJECT: BRAZIL - ATSC DTV ADVOCACY AND SPECIAL
REPRESENTATIVE MERMOUD MEETINGS

REF: STATE 221409

[1](#)1. (SBU) Summary: The Charge delivered reftel letter from Secretaries Rice and Gutierrez to Communications Minister

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Costa in a December 13 meeting. Costa stated his principal concern with the ATSC standard was the expense of repeater stations to enhance broadcast coverage. The letter was a well timed follow-on to the December 7-9 visit to Brasilia and Sao Paulo of Special Representative for Business Affairs Frank Mermoud, who also advocated strongly for Brazilian adoption of the ATSC digital television standard, including in an interview with economic daily Valor. Mermoud met with U.S. business representatives in both cities, pressed for improvements to the business climate and advocated with telecommunications regulator ANATEL on behalf of U.S. company Qualcomm. In addition, he heard views on trade, investment and the economy from Sao Paulo's federation of industries (FIESP). End Summary.

ATSC Letter

[1](#)2. (SBU) The Charge used a previously scheduled meeting (on U.S. non-immigrant visa issues) with Costa on December 13 to deliver a copy of reftel letter from Secretaries Rice and Gutierrez and pressed for Brazilian adoption of the ATSC Digital Television (DTV) standard. Costa said his biggest concern was a technical one, i.e. that ATSC's (alleged) poor broadcast coverage would force Brazilian broadcasters to go to substantial expense to put in additional repeaters to reach the majority of Brazilians who do not have access to cable. Unlike in the U.S., he said, where television programming principally arrives via cable or satellite, Brazil relies on "terrestrial" broadcasting. He asked that the ATSC forum send an "engineer, not a salesman" to discuss the issue with his ministry, principally to explore whether all the added repeater stations would be able to operate on the same channel. Costa further claimed that the Japanese and Europeans had put more on the table in terms of joint research projects and other incentives, while the U.S. offer of up to \$150 million in possible OPIC financing for joint projects had never been formalized in writing. Post is following up with ATSC forum representatives on Costa's request and meeting offer.

Mermoud ATSC Advocacy

[1](#)3. (SBU) As Communications Vice Minister Tito Cardoso was forced to cancel his scheduled December 9 meeting on ATSC with Mermoud because of a family emergency, post has delivered Mermoud's follow-up ATSC advocacy letter to Cardoso. While in Brasilia, Mermoud advocated for Brazilian adoption of the ATSC standard with Public Services Superintendent Marcos Bafutto of telecommunications regulator ANATEL and with Investment Director Ingo Ploger of the Ministry of Development, Industry and Trade (MDIC). ANATEL has a seat on the interagency committee that is reviewing the DTV decision, Bafutto said. While not on the interagency DTV committee, Ploger said his ministry has involved itself in the debate on a DTV standard to ensure that Brazil pursues an option that does not isolate it (comment: an implied criticism of Brazil's previous decision to create its own version of the PAL analog color TV system, currently used only in Brazil and Laos) and which maximizes opportunities for Brazilian business in both production and research. Ploger welcomed greater detail on ATSC proposals and on the possibility of OPIC financing for research and development work in Brazil.

QUALCOMM

[1](#)4. (SBU) Mermoud urged ANATEL to find a way, in a

commercially relevant timeframe, for cellular operator Vivo to obtain bandwidth nationwide. Vivo is the leading Brazilian user of Qualcomm's CDMA cellular phone technology but has been losing market share to GSM operators that have been able to obtain a nationwide footprint. Bafutto said ANATEL would likely move to allow Vivo to use the 1.9 megahertz band in states where it does not currently have bandwidth. However, since these frequencies are currently dedicated to wireless local loop (WLL) services there would be limits on Vivo's use of the frequencies. In particular, Vivo would only be able to provide roaming access for existing customers from other states, and not sign up new customers in the states where it currently has no bandwidth. Also, since existing regulations limit the number of mobile phone services in a single state to four, Bafutto said, ANATEL would have to hold public hearings on the change. He expected the existing operators in those states would express significant opposition. Bafutto nevertheless expected to move forward with the change by mid-2006. ANATEL was planning, Bafutto said, to tender licenses for third generation cellular services by the end of 2006. Vivo also would be welcome to bid for nationwide bandwidth in those auctions.

Impediments to Business

15. (SBU) In a December 8 meeting with Mermoud, Philippe Prufer of Eli Lilly explained to Mermoud the Sao Paulo Amcham's focus on creating a better business climate in Brazil. Prufer acknowledged the Chamber's advocacy efforts had seen mixed results. On the macroeconomic level things have greatly improved, while on the microeconomic level, Prufer believed, things have actually worsened. Currently, the Amcham is focusing on five areas for improving the business environment in Brazil: regulatory agencies; IPR and Innovation; fiscal reform (i.e. tax reform); piracy; and, job creation.

16. (SBU) International Affairs Director Roberto Gianetti of the Sao Paulo State Industry Federation (FIESP) enumerated similar concerns when asked about his organization's view of the principal impediments to doing business in Brazil. FIESP's list includes: taxation; bureaucracy; a judicial system where judge's interpretations of laws and contracts are arbitrary and subject to frequent change; and, market uncertainty caused by the political scandals. FIESP, Gianetti said, will lobby the next government to change the system of appointing judges for life without confirmation hearings. FIESP supports having Congress choose from a list of three candidates nominated by the President, according to Gianetti.

IPR/Piracy and Pharmaceutical Patents

17. (SBU) In a roundtable session in Sao Paulo, Isabel Franco of the IPR-focused law firm Demarest & Almeida discussed recent efforts made to combat pirated goods, including intensified law enforcement activity and public awareness campaigns to emphasize the loss of jobs that have resulted from the sale of pirated goods. She said progress has been made in the legislative area and that draft language under consideration for new legislation against piracy includes an arbitration clause which bodes well for resolving future cases more expeditiously. Steve Solot of the Motion Picture Association stated the GoB is making progress in its efforts to protect IPR and a National Council has formulated a comprehensive 99 point plan to attack the problem. Solot further opined that a decrease in value added taxes could help provide incentives to encourage the sale of legal products. On a separate issue, Solot expressed worry regarding pending legislation, promoted by the Brazilian media giant GLOBO, which would restrict foreign direct investment in areas such as the provision of internet service (i.e., activities that might compete with GLOBO's lucrative cable pay television programming).

18. (SBU) Both Mario Grieco of Bristol-Myers and Prufer discussed the challenges faced by the pharmaceutical industry in Brazil. The GOB's recent threat to compulsory license several anti-AIDs drugs produced by U.S. manufacturers, Prufer and Grieco said, represented a short-sighted solution to the current financial problems in the country's health system. The bigger problem, they argued, was that a sizable portion of the population lacks access to affordable healthcare. This has resulted in a 3 tiered distribution system for pharmaceuticals in Brazil - 1) patented drugs, 2) generic drugs, and 3) similar drugs, with medicines in this last category sometimes lacking in quality, effectiveness, and safety. This system, they declared, encourages the use of substandard medicines and perpetuates a disjointed pricing reality in which patented drugs that would typically sell for a cost of \$100 in the U.S. might cost approximately \$220 in Brazil.

¶9. (SBU) Meanwhile, during their December 9 meeting in Brasilia, Mermoud told MDIC Investment Director Ingo Ploger that the importance of intellectual property to tech firms, which were significant sources of economic and technological development, argued for strong IPR protections. These firms created significant local supply chain linkages, Mermoud said, that helped spread technology and innovation through the economy. Ploger replied that improving IPR protection was a goal MDIC took seriously, particularly since his ministry oversees the Brazilian patent institute.

Energy Sector

¶10. (SBU) Mickey Peters of Duke Energy observed that the Lula government is implementing a new electricity sector model in Brazil which, in effect, is reversing the trend of privatization in an attempt to deliver lower prices to consumers. The new law acts as a disincentive for potential investors to build new power stations and many interested parties, mainly from the European Union are walking away, he said. This could result in electricity shortages in 3-5 years as the demand fueled by new growth will likely outpace new energy supplies.

¶11. (SBU) In his meeting with Isaac Averbruch, a director of electricity sector regulator ANEEL, Mermoud urged him to do what he could as a regulator to mitigate the worst aspects of the new energy model in their December 9 meeting. Averbruch acknowledged that there would be a potential shortfall in generation capacity beginning in 2009 or 2010. In addition to the concerns raised by companies such as Duke, Brazil's tortuous environmental licensing process was also an important problem, he said.

¶12. (U) This joint Sao Paulo/Brasilia cable was cleared by EB/CBA.

CHICOLA